

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFONSO L. KELLEY, Plaintiff(s)

v.

MARCHE/MOVEDPICK, RICHTEE, U.S.A., Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon ROBERT M. WARREN

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DeVecchio, Esquire, at Boston, the Thirteenth day of August, in the year of our Lord two thousand and four.

Michael Joseph Donovan
Clerk/Magistrate

8-20-04 *David May*
Deputy Sheriff Suffolk County

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFFS ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFOUSSKINY KELLY

, Plaintiff(s)

v.

IGOR REICHERT

, Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Robert M. Warren

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DeVecchio, Esquire, at Boston, the Thirtieth day of August, in the year of our Lord two thousand and four.

8-20-04

Michael Joseph Donovan
Clerk/Magistrate

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Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFONSSSEINY KELLY

, Plaintiff(s)

v.

LIZA KASTROM

, Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon ROBERT M. WARREN

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire, at Boston, the Thirteenth day of August, in the year of our Lord two thousand and four.

Michael Joseph Donovan
Clerk/Magistrate

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(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER.

FORM CIV.P. 1 3rd Rev.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFOUSSEINY KELLY

, Plaintiff(s)

v.

ELIS GEORAYES

, Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon ROBERT M. WARREN

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVerchio, Esquire, at Boston, the Thirteenth day of August, in the year of our Lord two thousand and four.

Michael Joseph Donovan

Clerk/Magistrate

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Commonwealth of Massachusetts

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFOUSSELYN KELLY

, Plaintiff(s)

MARTINE THOMAS

, Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon ROBERT M. WARKEN

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DeVecchio, Esquire, at Boston, the Thirteenth day of August, in the year of our Lord two thousand and four.

CLERK OF COURT
8-20-04

Michael Joseph Donovan
Clerk/Magistrate

NOTES:

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FORM CIV.P. 13rd Rev.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTIONNo. 04-2461ALFUSSEIMY KELLY

, Plaintiff(s)

v.

HOLGER MAMMEN

, Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon ROBERT M. WARREN

plaintiff's attorney, whose address is 11 Green Street, Jamaica Plain, MA 02130, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

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Witness, Suzanne V. DeVecchio, Esquire, at Boston, the Thirteenth day of August, in the year of our Lord two thousand and four.

Michael Joseph Donovan
Clerk/Magistrate

8-20-04

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FORM CTV.P. 1 3rd Rev.

NOTICE TO DEFENDANT — You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

CIVIL ACTION COVER SHEET	DOCKET NO.(S)	Trial Court of Massachusetts Superior Court Department County: <u>SUFFOLK</u>
PLAINTIFF(S) Alfousseiny Kelly	DEFENDANT(S) Marche/Movenpick, Rich Tree USA, Igor Reichert, Holger Mammen, Liza Kastrom, Martina Thomas, Elie Ghorayeb	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Robert M. Warren 11 Green St, Jamaica Plain, MA 02130 Board of Bar Overseers number: 555661 (617) 983-1441	ATTORNEY (if known) Andrew Pickett, Esq. Jackson, Lewis, Schnitzler, Kruman One Beacon St, Boston, MA 02108 (617) 367-0025	
Origin code and track designation		
Place an x in one box only:		
<input checked="" type="checkbox"/> 1. F01 Original Complaint		
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)		
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)		
<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)		
<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.H.Civ.P. 60) (X)		
<input type="checkbox"/> 6. E10 Summary Process Appeal (X)		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)		
CODE NO.	TYPE OF ACTION (specify)	TRACK
B99	Tort	(F) (*) Yes () No
IS THIS A JURY CASE?		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$ 1
2. Total Doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe)		\$
Subtotal		\$ 4,000.00+
B. Documented lost wages and compensation to date		\$
C. Documented property damages to date		\$
D. Reasonably anticipated future medical and hospital expenses		\$
E. Reasonably anticipated lost wages		\$
F. Other documented items of damages (describe)		\$ 250,000.00
Emotional Distress/Pain and Suffering		\$
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		\$
The plaintiff was injured by the Defendants' discrimination, assault and battery and violation of public policy when it terminated plaintiff causing severe pain and suffering and emotional distress as well as future earnings		TOTAL \$ 254,000.00
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s):		
TOTAL \$		
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record <i>Robert M. Warren</i>		DATE: _____

CIVIL ACTION COVER SHEET INSTRUCTIONS

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

CONTRACT

- 1 Services, labor and materials (F)
 2 Goods sold and delivered (F)
 3 Commercial Paper (F)
 4 Sale or lease of real estate (F)
 5 Construction Dispute (A)
 6 Other (Specify) (F)

TORT

- 3 Motor Vehicle negligence-
 personal injury/property damage (F)
 4 Other negligence-personal
 injury/property damage (F)
 5 Products Liability (A)
 6 Malpractice-medical (A)
 7 Malpractice-other(Specify) (A)
 8 Wrongful death, G.L.c.229,s2A (A)
 9 Defamation (Libel-Slander) (A)
 0 Asbestos (A)
 1 Personal Injury-Slip&Fall (F)
 2 Environmental (A)
 3 Employment Discrimination (F)
 4 Other (Specify) (F)

REAL PROPERTY

- C01 Land taking (eminent domain) (F)
 C02 Zoning Appeal, G.L. c.40A (F)
 C03 Dispute concerning title (F)
 C04 Foreclosure of mortgage (X)
 C05 Condominium lien and charges (X)
 C99 Other (Specify) (F)

EQUITABLE REMEDIES

- D01 Specific performance of contract (A)
 D02 Reach and Apply (F)
 D06 Contribution or Indemnification (F)
 D07 Imposition of Trust (A)
 D08 Minority Stockholder's Suit (A)
 D10 Accounting (A)
 D12 Dissolution of Partnership (F)
 D13 Declaratory Judgment G.L.c.231A (A)
 D99 Other (Specify) (F)

MISCELLANEOUS

- E02 Appeal from administrative (X)
 Agency G.L. c. 30A
 E03 Action against Commonwealth
 Municipality, G.L. c.25B (A)
 E05 All Arbitration (X)
 E07 c.112,s.12S (Mary Mos) (X)
 E08 Appointment of Receiver (X)
 E09 General contractor bond,
 G.L. c.148,s.28,29a (A)
 E11 Workmen's Compensation (X)
 E14 Chapter 123A Petition-SDP (X)
 E15 Abuse Petition, G.L.c.209A (X)
 E16 Auto Surcharge Appeal (X)
 E17 Civil Rights Act, G.L.c.12,s.11H (A)
 E18 Foreign Discovery proceeding (X)
 E96 Prisoner Cases (F)
 E97 Prisoner Habeas Corpus (X)
 E99 Other (Specify) (X)

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUPERIOR COURT RULE 29

STATEMENT OF THE PLAINTIFF. The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

STATEMENT OF THE DEFENDANT. Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT DEPARTMENT
SUFFOLK DIVISION
CIVIL ACTION NO.

ALFOUSSEINY KELLY,
Plaintiff

v.

MARCHE/MOVENPICK, RICHTREE,
U.S.A.
IGOR REICHERT, HOLGER MAMMEN,
LIZA KASTROM, MARTINE THOMAS,
ELIE GHORAYEB,
Defendant

04-2461

COMPLAINT AND DEMAND
FOR JURY TRIAL

INTRODUCTION

This is an action by the Plaintiff, Alfousseiny Kelly against the Defendants Marche/Movenpick, Richtree USA, Igor Reichert, Holger Mammen, Liza Kastrom, Martine Thomas and Elie Ghorayeb for discrimination on account of national origin discrimination and race, assault and battery and violation of public policy as an exception to the at-will employment rule in Massachusetts.

STATEMENT OF JURISDICTION

1. The court has jurisdiction pursuant to M.G.L. c. 151B in that the Plaintiff met his administrative prerequisite by filing his complaint for discrimination within six (6) months of the complained of action by the defendants. See Exhibit A, Complaint of Discrimination received by the Massachusetts Commission Against Discrimination, Docket No. 01BEM10126.

PARTIES

2. Plaintiff, Alfousseiny Kelly resides at 34 Creighton Street, Jamaica Plain, Massachusetts.
3. Defendants Marche/Movenpick, Richtree, U.S.A. is a corporation with offices in Massachusetts located at 800 Boylston Street, Boston, MA.
4. Defendant Igor Reichert, is the President of Marche/Movenpick, Richtree, U.S.A with his office located at 111 Richmond Street West, Suite 1500, Toronto, Ontario M5H 2G4, Canada.
5. Defendant Holger Mammen is the General Manager of Rich Tree (U.S.) Inc with offices at 800 Boylston Street, Boston, MA.
6. Liza Kastrom is the director of Human Resources for Rich Tree (U.S.) Inc. with offices at 800 Boylston Street, Boston, MA.
7. Martine Thomas works for Rich Tree (U.S.) Inc, at the office at 800 Boylston Street, Boston, MA.
8. Elie Ghorayeb was a supervisor for Rich Tree (U.S.) Inc. at the office at 800 Boylston Street, Boston, MA.

STATEMENT OF FACTS AND CLAIMS

9. The Plaintiff is 42 years old and was born in Mali, Africa.
10. He was an employee for defendant Marche-Movenpick/Rich Tree (U.S.) Inc. (hereinafter "Marche") from March 23, 2000 until June 12, 2001 when he was terminated.
11. The plaintiff's primary responsibility at his employment was as a pastry chef for the Defendant Marche's restaurant.

12. During the plaintiff's employment with Marche, he received very good evaluations including as recent as April, 2001.
13. During the course of his employment, the plaintiff complained to the human resources department and the General Manager of the defendant Marche about the lack of contribution to the work of the pastry department by his co-workers.
14. As a result of his complaints, he was forced to work harder and perform the required work of two to three employees.
15. In May, 2001, the plaintiff complained to defendant Mammen telling him that he was very tired after his shift because his co-workers were clocking in and then disappearing for long periods of time leaving him to do their work as well as his own.
16. Defendant Mammen told the plaintiff that he would speak with defendants Thomas and Ghorayeb about the situation.
17. A meeting took place between the plaintiff, defendants Mammen, Thomas and Ghorayeb. In that meeting the plaintiff told the defendants that he was doing the work of five employees and that nobody was helping him. He said he could not do the job and that he needed help.
18. On June 7, 2001, the plaintiff was working when he was told by defendant Thomas that a customer complained that he refused to give ice to a customer. The plaintiff told Thomas he did not know what she was talking about and he denied the accusation.
19. Defendant Thomas grabbed the plaintiff by his pants and grabbed his hands without his consent. She told him to "Leave now!"

20. The plaintiff was in shock but he told her he would leave. He then went to defendant Kastrom and told her that Thomas had assaulted him and attacked him. All he told Thomas during her attack was "Don't do it."
21. As a result, Ms. Kastrom sent the plaintiff home with a warning for "rudeness to employees or customers" and "that I was upset at my station."
22. On June 12, 2001, defendant Marche terminated him.
23. During his employment, the plaintiff observed that Brazilian co-workers were treated more favorably than his treatment.
24. This was particularly true of his supervisor defendant Ghorayeb.
25. In addition, Ghorayeb said, "I don't like your face."
26. Some of the favored employees are the same ones who failed to do their work leaving the plaintiff to complete those tasks. Yet, the plaintiff was disciplined and fired for complaining about this disparate treatment.
27. In March, 2001, defendant Igor Reichert, the owner and President of Marche met the plaintiff at his work station and both complimented the plaintiff's work and apologized for the situation there. This showed that the highest levels of management of Marche were aware of the problems yet chose to do nothing about it except to fire the plaintiff.

COUNT I-DISCRIMINATION: NATIONAL ORIGIN

28. Plaintiff repeats and incorporates by reference the allegation contained in paragraphs 1 through 27 as if fully set forth herein.

29. By the conduct described in paragraphs 1 through 27, all of the defendants discriminated against the plaintiff on account of his national origin in violation of Massachusetts General Laws chapter 151B.

30. The Plaintiff suffered greatly as a result of the Defendant's actions.

31. Wherefore, Plaintiff demands judgment against the Defendant for actual and compensatory damages with interest, costs and attorney's fees for pain and suffering, emotional distress and lost income.

COUNT II-DISCRIMINATION: RACE

32. Plaintiff repeats and incorporates by reference the allegation contained in paragraphs 1 through 31 as if fully set forth herein.

33. By the conduct described in paragraphs 1 through 31, all of the defendants discriminated against the plaintiff on account of his race in violation of Massachusetts General Laws chapter 151B.

34. The Plaintiff suffered greatly as a result of the Defendant's actions.

35. Wherefore, Plaintiff demands judgment against the Defendant for actual and compensatory damages with interest, costs and attorney's fees for pain and suffering, emotional distress and lost income.

COUNT III- ASSAULT AND BATTERY

36. Plaintiff repeats and incorporates by reference the allegation contained in paragraphs 1 through 35 as if fully set forth herein.

37. Defendant Thomas placed the plaintiff in apprehension of imminent harm when she moved towards him with her hands.

38. Defendant Thomas committed a battery when she touched the plaintiff without his consent or non-consensually as she grabbed him by the pants and hands on June 7, 2001.

39. Wherefore, Plaintiff demands judgment against the Defendant for actual and compensatory damages with interest, costs and attorney's fees for pain and suffering, emotional distress and lost income.

COUNT IV-PUBLIC POLICY EXCEPTION OF AT-WILL EMPLOYMENT
DOCTRINE

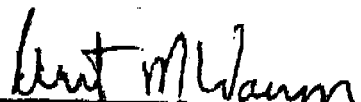
40. Plaintiff repeats and incorporates by reference the allegation contained in paragraphs 1 through 39 as if fully set forth herein.

41. Defendant's actions against the plaintiff after the plaintiff reported the problems with his co-workers not carrying out their work was in violation of the public policy exception to the at-will employment law.

42. Wherefore, Plaintiff demands judgment against the Defendant for actual and compensatory damages with interest, costs and attorney's fees for pain and suffering, emotional distress and lost income.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES.

Respectfully submitted,
Alfousseiny Kelly
By his attorney,


Robert M. Warren
BBO #555661
11 Green Street
Jamaica Plain, MA 02130
(617) 983-1441

CHARGE OF DISCRIMINATION
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

FEPA NUMBER: FILING DATE:
EEOC: VIOLATION DATES: June 12, 2001

NAME OF AGGRIEVED PERSON TELEPHONE NUMBERS

Alfousseiny Kelly (617) 429-2156
15 Parkside Street
Jamaica Plain, MA 02130

NAMED ARE THE EMPLOYERS WHO DISCRIMINATED AGAINST HER:

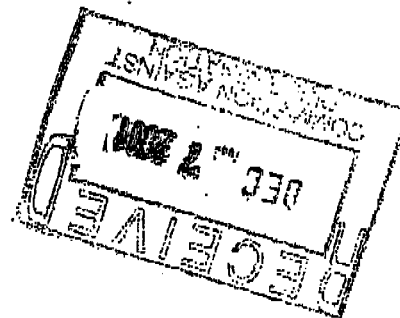
Marche/Movenpick
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Igor Reichert
Marche Movenpick
A Division of Richtree (U.S.) Inc.
111 Richmond Street West, Suite 1500
Toronto, Ontario M5H 2G4
Canada

Holger Mammen
General Manager
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Liza Kastrom
Human Resources
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Martine Thomas
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199



CHARGE OF DISCRIMINATION
MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

FEPA NUMBER:	FILING DATE:
EEOC:	VIOLATION DATES: June 12, 2001

NAME OF AGGRIEVED PERSON	TELEPHONE NUMBERS
Alfousseiny Kelly 15 Parkside Street Jamaica Plain, MA 02130	(617) 429-2156

NAMED ARE THE EMPLOYERS WHO DISCRIMINATED AGAINST HER:

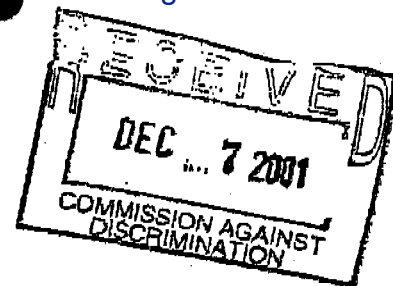
Marche/Movenpick
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Igor Reichert
Marche Movenpick
A Division of Richtree (U.S.) Inc.
111 Richmond Street West, Suite 1500
Toronto, Ontario M5H 2G4
Canada

Holger Mammen
General Manager
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Liza Kastrom
Human Resources
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

Martine Thomas
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199



Elie ?
Rich Tree (U.S.) Inc.
c/o Marche Boston
800 Boylston Street
P.O. Box 990007
Boston, MA 02199

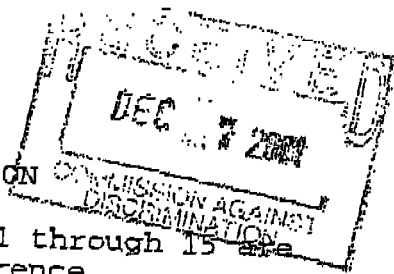
DISCRIMINATION BASED ON NATIONAL ORIGIN AND RACE

THE PARTICULARS ARE:

1. I am 39 years old.
2. I was born in Mali, Africa.
3. I was an employee of Marche Movenpick/Rich Tree (U.S.) Inc., 800 Boylston Street, P.O. Box 990007, Boston, MA 02199 from March 23, 2000 until June 12, 2001 when I was terminated.
4. Marche Movenpick/Rich Tree (U.S.) employs more than 6 people.
5. Igor Reichert is the President/Owner of Marche Movenpick/Rich Tree (U.S.).
6. Holger Mammen is the General Manager of Marche/Movenpick Restaurant/Rich Tree (U.S.) in Boston, Massachusetts.
7. Liza Kastrom is the Human Resources Director of Marche/Movenpick Restaurant/Rich Tree (U.S.) in Boston, Massachusetts.
8. Martine Thomas was a supervisor of mine of Marche/Movenpick Restaurant/Rich Tree (U.S.) in Boston, Massachusetts.
9. Elie was a supervisor of mine of Marche/Movenpick Restaurant/Rich Tree (U.S.) in Boston, Massachusetts.
10. My primary responsibility was as a pastry chef for the Restaurant.
11. During my employment with Marche, I received very good evaluations including as recent as April, 2001 when Martine Thomas gave me a good evaluation for my work.
12. During my employment, I complained to human resources and the General Manager about the lack of contribution to the work of the pastry department by my co-workers. As a result, I was forced to work harder and perform the required work of two to three employees.

13. In May, 2001, I complained to Holger Mammen, telling him that I was very tired after my shift because my co-workers were clocking in and then disappearing for long periods of time leaving me to do their work as well as my own.
14. Mr. Mammen told me that he would speak with Ms. Thomas, Elie and Leo from administration about the situation.
15. A meeting took place between myself, Mr. Mammen, Ms. Thomas and Elie. I told them I was doing the work of five employees and that nobody was helping me. I said I could not do the job and that I needed help.
16. On June 7, 2001, I was working when I was told by Ms. Thomas that a customer complained that I refused to give ice to a customer. I told her I did not know what she was talking about and I denied the accusation.
17. Ms. Thomas then grabbed me by the pants and grabbed my hands without my consent. She told me to "Leave now!"
18. I was in shock, but I told her I would leave. I then went to Ms. Kastrom and told her that Ms. Thomas assaulted me and attacked me. All I told Ms. Thomas during her attack was "Don't do it."
19. As a result Ms. Kastrom sent me home with a warning for "rudeness to employees or customers "and that I was upset at my station.
20. On June 12, 2001, Marche/Movenpick terminated me.
21. During my employment with Marche/Movenpick/Rich Tree (U.S.) I observed that my Brazilian co-workers were treated more favorable than my treatment.
22. I observed Elie, my supervisor, give favorable treatment to the Brazilian employees who worked with me.
23. In addition, Elie told me "I don't like your face!" I considered that statement discrimination.
24. Some of these employees are the same ones who failed to do their work leaving me to complete those tasks. Yet, I was disciplined and fired for complaining about this disparate treatment.
25. In March, 2001, Igor Reichert, the owner and President of Marche/Movenpick met me at my work station and both complimented my work and apologized for the situation there. As such, the highest levels of management were aware of the problems at my workplace yet chose to do nothing about it except to fire me.

COUNT ONE
NATIONAL ORIGIN DISCRIMINATION



26. The allegations contained in paragraphs 1 through 15 are repeated and incorporated herein by reference.
27. By the conduct described in paragraphs 1 through 25, Marche/Movenpick/Rich Tree (U.S.), Igor Reichert, Mr. Mammen, Ms. Kastrom, Ms. Thomas and Elie discriminated against me, a member of a protected class, on the basis of national origin in violation of Massachusetts General Laws Chapter 151B.

COUNT TWO
RACE DISCRIMINATION

28. The allegations contained in paragraphs 1 through 27 are repeated and incorporated herein by reference.
29. By the conduct described in paragraphs 1 through 27, Marche/Movenpick/Rich Tree (U.S.), Igor Reichert, Mr. Mammen, Ms. Kastrom, Ms. Thomas and Elie discriminated against me, a member of a protected class, on the basis of race in violation of Massachusetts General Laws Chapter 151B.

Therefore, I respectfully ask the Commission to grant such relief as it deems fair and just including, but not limited to, back pay, front pay, emotional distress damages, medical expenses, costs and attorneys fees.

ALFOUSSEINY Kelly
ALFOUSSEINY KELLY

Appeared before me the above named Alfousseiny Kelly and made his signature in my presence, having sworn and affirmed the above statements on this 6th day of December, 2001

Robert M. Wamen

Notary Public

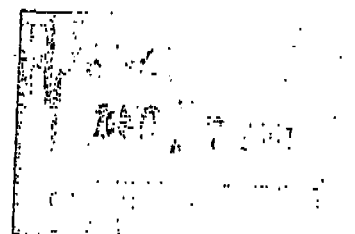
My Commission Expires: February 24, 2006

CERTIFICATE OF SERVICE

I certify that I have served the complaint of Alfousseiny Kelly on the Respondents in this matter by first-class, postage pre-paid mail this 7th day of December, 2001.

Date: 12/7/01

Robert M. Warren
Robert M. Warren



**The Commonwealth of Massachusetts
Commission Against Discrimination
One Ashburton Place, Boston, MA 02108
Phone: (617) 994-6000 Fax: (617) 994-6024**

MCAD DOCKET NUMBER: 01BEM10126
FILING DATE: 12/07/01

FEEOCHUD CHARGE NUMBER: 16CA200864
VIOLATION DATE: 06/12/01

Name of Aggrieved Person or Organization:

Alfousseiny Kelly
15 Parkside Street
Jamaica Plain, MA 02130
Primary Phone: (617)429-2156 ext. _____

Named is the employer, labor organization, employment agency, or state/local government agency who
discriminated against me:

Marche/Movenpick, et, al.
Attn: Human Resources
P.O. Box 990007
Boston, MA 02199

Igor Reichert
Marche Movenpick

800 Boylston Street
Boston, MA 02199

Helger Mannen
Marche Movenpick

P.O. Box 990007
Boston, MA 02199

Liza Kastrom
Rich Tree U.S. Inc.
Attn: Human Resources
P.O. Box 990007
Boston, MA 02199

Martine Thomas
Rich Tree U.S., Inc.
c/o Marche Boston
P.O. Box 990007
Boston, MA 02199

Elie "LNU"
Rich Tree U.S. Inc.

P.O. Box 990007

MCAD Docket Number 01BEM10126, Complaint

**CIVIL ACTION
COVER SHEET**

IT NO.(S)

**Judicial Court of Massachusetts
Superior Court Department**
County: SUFFOLK



PLAINTIFF(S)

Alfousseiny Kelly

DEFENDANT(S)

Marche/Movenpick, Rich Tree USA, Igor
Reichert, Holger Mammen, Liza Kastrom, Martine
Thomas, Elie Ghorayeb

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Robert M. Warren

11 Green St, Jamaica Plain, MA 02130

Board of Bar Overseers number: 555661 (617) 983-1441

ATTORNEY (if known)

Andrew Pickett, Esq.

Jackson, Lewis, Schnitzler, Kruoman

One Beacon St, Boston, MA 02108

(617) 367-0025

Origin code and track designation

Place an x in one box only:

- | | |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) | <input type="checkbox"/> 6. E10 Summary Process Appeal (X) |

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

B99

TYPE OF ACTION (specify)

Tort

TRACK

(F)

IS THIS A JURY CASE?

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | |
|------------------------------------------|--------|
| 1. Total hospital expenses | \$. ? |
| 2. Total Doctor expenses | \$ |
| 3. Total chiropractic expenses | \$ |
| 4. Total physical therapy expenses | \$ |
| 5. Total other expenses (describe) | \$ |

Subtotal \$

B. Documented lost wages and compensation to date

\$ 4,000.00+

C. Documented property damages to date

\$

D. Reasonably anticipated future medical and hospital expenses

\$

E. Reasonably anticipated lost wages

\$

F. Other documented items of damages (describe)

\$

Emotional Distress/Pain and Suffering

\$ 250,000.00

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

The plaintiff was injured by the Defendants' discrimination, assault and battery and violation of public policy when it terminated plaintiff causing severe pain and suffering and emotional distress as well as future earnings

\$

TOTAL \$ 254,000.00

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE:

CIVIL ACTION COVER SHEET INSTRUCTIONS

SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE

CONTRACT

A01 Services, labor and materials (F)
 A02 Goods sold and delivered (F)
 A03 Commercial Paper (F)
 A08 Sale or lease of real estate (F)
 A12 Construction Dispute (A)
 A99 Other (Specify) (F)

TORT

B03 Motor Vehicle negligence-
 personal injury/property damage (F)
 B04 Other negligence-personal
 injury/property damage (F)
 B05 Products Liability (A)
 B06 Malpractice-medical (A)
 B07 Malpractice-other(Specify) (A)
 B08 Wrongful death, G.L.c.229.s2A (A)
 B15 Defamation (Libel-Slander) (A)
 B19 Asbestos (A)
 B20 Personal Injury-Slip&Fall (F)
 B21 Environmental (A)
 B22 Employment Discrimination (F)
 B99 Other (Specify) (F)

REAL PROPERTY

C01 Land taking (eminent domain) (F)
 C02 Zoning Appeal, G.L. c.40A (F)
 C03 Dispute concerning title (F)
 C04 Foreclosure of mortgage (X)
 C05 Condominium lien and charges (X)
 C99 Other (Specify) (F)

EQUITABLE REMEDIES

D01 Specific performance of contract (A)
 D02 Reach and Apply (F)
 D06 Contribution or Indemnification (F)
 D07 Imposition of Trust (A)
 D08 Minority Stockholder's Suit (A)
 D10 Accounting (A)
 D12 Dissolution of Partnership (F)
 D13 Declaratory Judgment G.L.c.231A (A)
 D99 Other (Specify) (F)

MISCELLANEOUS

E02 Appeal from administrative (X)
 Agency G.L. c. 30A
 E03 Action against Commonwealth
 Municipality, G.L. c.258 (A)
 E05 All Arbitration (X)
 E07 c.112,s.12S (Mary Moe) (X)
 E08 Appointment of Receiver (X)
 E09 General contractor bond,
 G.L. c.149,s.29,29a (A)
 E11 Workman's Compensation (X)
 E14 Chapter 123A Petition-SDP (X)
 E15 Abuse Petition, G.L.c.209A (X)
 E16 Auto Surcharge Appeal (X)
 E17 Civil Rights Act, G.L.c.12,s.11H (A)
 E18 Foreign Discovery proceeding (X)
 E96 Prisoner Cases (F)
 E97 Prisoner Habeas Corpus (X)
 E99 Other (Specify) (X)

TRANSFER YOUR SELECTION TO THE FACE SHEET.

EXAMPLE:

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SUPERIOR COURT RULE 29

DUTY OF THE PLAINTIFF. The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

DUTY OF THE DEFENDANT. Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY
MAY RESULT IN DISMISSAL OF THIS ACTION.**

Commonwealth of Massachusetts
County of Suffolk
The Superior Court

CIVIL DOCKET# SUCV2004-02461-E

RE: Kelly v Marche/Movenpick Richtree USA et al

TO: Robert M Warren, Esquire
11 Green Street
Jamaica Plain, MA 02130

TRACKING ORDER - F TRACK

You are hereby notified that this case is on the fast (F) track as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

Service of process made and return filed with the Court	09/02/2004
Response to the complaint filed (also see MRCP 12)	11/01/2004
All motions under MRCP 12, 19, and 20 filed	11/01/2004
All motions under MRCP 15 filed	11/01/2004
All discovery requests and depositions completed	03/31/2005
All motions under MRCP 56 served and heard	04/30/2005
Final pre-trial conference held and firm trial date set	05/30/2005
Case disposed	07/29/2005

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.

Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

This case is assigned to session E sitting in CtRm 7 - 11th fl., 90 Devonshire St., Boston at Suffolk Superior Court.

Dated: 07/28/2004

Michael Joseph Donovan
Clerk of the Courts

BY: Elaine R. Lombardi
Assistant Clerk

Location: CtRm 7 - 11th fl., 90 Devonshire St., Boston
Telephone: 617-788-8144

Disabled individuals who need handicap accommodations should contact the Administrative Office of the Superior Court at (617) 788-8130

Check website as to status of case: <http://ma-trialcourts.org/tcic>